

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEROY A. ANDREOZZI

Plaintiff, No. CIV S-02-0796 GEB CMK P

vs.

DEPARTMENT OF CORRECTIONS, et al.,

Defendants. FINDINGS & RECOMMENDATIONS

Petitioner is a state prisoner proceeding pro se. He brought this civil rights action pursuant to 42 U.S.C. § 1983, alleging that prison grooming regulations violate his First Amendment right to practice his religion. Currently before the court is petitioner's motion titled "Motion for Writ of Habeas Corpus add to Preserve his Habeas Corpus Rights." In the motion, plaintiff asserts that he has exhausted a habeas claim filed in California state court, and he appears to be asking the court to file a federal habeas action.

Any habeas action filed by plaintiff would be entirely separate from the instant proceeding. A party may not open a new action by making a motion in a current case. If plaintiff wishes to pursue federal habeas relief, he must file a separate action in this court. Accordingly, plaintiff's motion for a writ of habeas corpus is not a proper motion in this proceeding and will be stricken from the file.

IT IS ORDERED that plaintiff's April 19, 2005 motion for a writ of habeas corpus
is stricken from the record.

3 || DATED: April 22, 2005

/s/ CRAIG M. KELLISON
Craig M. Kellison
UNITED STATES MAGISTRATE JUDGE